

REMARKS/ARGUMENTS

The Office Action mailed April 22, 2004 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

In the specification, a paragraph has been amended to correct minor editorial problems. No new matter has been added.

The First 35 U.S.C. § 102 Rejection

Claims 1-27 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Ross.¹ This rejection is respectfully traversed.

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.²

The Office Action states:

Referring to Fig. 1, Ross discloses configuring and maintaining VLAN designations on the plurality of ports of hub 10, thereby isolating the ports for processing only messages belonging to the designated VLAN (Col. 3, lines 14-21; claim 1/8/9/13/20/27 – means for configuring/maintaining each switch port as protected or non-protected).

Applicant respectfully disagrees. Ross does not show configuring or maintaining each switch port as protected or non-protected. As such, Ross fails to teach “configuring each of said

¹ U.S. Patent Application US005394402A

² Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

plurality of ports by a user on said layer 2 switch as a protected or non-protected port” as claimed in claim 1.

The Office Action appears to be equating the VLAN designations in Ross with the states of the ports (i.e., protected or non-protected) of the presently claimed invention. Applicant respectfully submits that this interpretation is not correct. The VLAN designations in Ross appear to be identifications of VLANs, as opposed to reflections of a state of the port. This is evidenced by how Ross utilizes the VLAN designations. For example, Ross stores a VLAN designation in an outgoing message (see col. 3, lines 8-25). It then allows a hub to read this stored designation on an incoming message, and only transmit the message to a port that has a matching VLAN designation (see col. 3, lines 26-47). This is not the same as labeling the port as simply “protected” or “non-protected”. The differences between them are numerous. First, labeling the port as “protected” or “non-protected” does not require that the messages be appended with VLAN designations. Such VLAN designations would obviously add to the size of a message, and thus decrease network efficiency. Additionally, a VLAN designation in itself does not indicate whether or not a port is protected. As defined in the specification of the present application, a protected port is one that, if a message is received from such a port, will NOT be forwarded to any other protected port, but WILL be forwarded to non-protected ports (see page 9, lines 1-4).

The latter difference also applies to the specific language of claim 2, which indicates that “said generating step further comprises sending said data packet to each of said non-protected ports if said destination address is not matched it said physical address and said ingress port is a protected port”. Ross clearly does not teach this step, as even if it is assumed that the VLAN

designation terminology could include “protected” or “non-protected” states, claim 2 makes clear that the message is sent to ports which DO NOT share the same state as the ingress ports (the message is sent to non-protected ports if the ingress port is protected), whereas Ross makes clear just the opposite, that the message is only sent to a port which DOES share the same VLAN designation.

Thus, there is no indication in Ross that there is any configuring or maintaining of a “non-protected” vs. “protected” state for any of the ports. Ross simply teaches labeling these ports as being associated with specific VLAN designations, and then forwarding a message to a port associated with VLAN designation containing that matches the VLAN designation encapsulated in the message.

Claims 8, 9, 13, and 20 contain elements similar to claim 1, and thus Applicant maintains that these claims are also in condition for allowance. Furthermore, as to dependent claims 2-7, 10-12, 14-19 and 21-26, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

Additionally, Applicant would like to point out the present invention specifically discusses the handling of broadcast traffic, such as multicasts. While both the specification and claims make clear that the invention is not to be limited to multicasts, Applicant feels that it is important for the Patent Office to keep this in mind when comparing the claims to prior art. Ross, for example, clearly is not designed to handle multicast packets, as it is only intended to transmit messages to a specific VLAN matching the VLAN designation in the packet. While Applicant recognizes that this difference is not reflected in the claims, Applicant feels that proper

understanding of this difference would lead to a proper interpretation of the “VLAN designation” language and what it represents. Applicant respectfully requests that the Patent Office consider this contrast when interpreting prior art language in the future.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

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Dated: July 21, 2004

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